

**FILED**

**FEB 22 2006**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

JULIANNA AGARDI,

Plaintiff - Appellant,

v.

MANCHESTER GRAND HYATT; et al.,

Defendants - Appellees.

No. 05-15891

D.C. No. CV-04-02442-SI

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Susan Yvonne Illston, District Judge, Presiding

Submitted February 13, 2006<sup>\*\*</sup>

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Julianna Agardi appeals pro se from the district court's order granting summary judgment in favor of her former employer, Hyatt Corporation ("Hyatt"), in her action alleging retaliation and hostile work environment in response to her

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

claim of sexual harassment. Agardi contends she did not raise a disparate treatment claim based on her sex, so the district court erred in dismissing this claim. Because Agardi agrees she did not raise this claim, we affirm its dismissal. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the district court’s grant of summary judgment de novo, *Porter v. California Dep’t of Corrections*, 419 F.3d 885, 891 (9th Cir. 2005), and we affirm.

Agardi’s hostile work environment claim fails because she did not allege conduct by her supervisor that was “sufficiently severe or pervasive to alter the conditions of [her] employment and create an abusive working environment.” *Brooks v. City of San Mateo*, 229 F.3d 917, 923 (9th Cir. 2000) (citations omitted).

Agardi’s retaliation claim fails because she did not identify any genuine issue of material fact in opposition to Hyatt’s motion for summary judgment on this claim—indeed, Agardi failed to file any response to Hyatt’s motion. *See Carmen v. San Francisco Unified School District*, 237 F.3d 1026, 1031 (9th Cir. 2001).

Agardi’s remaining contentions lack merit.

Agardi’s motion to bar appellees and the district court from introducing evidence on remand is denied.

**AFFIRMED**